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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WASHINGTON

THOMAS A. WAITE,

Plaintiff,

THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS d/b/a CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation, d/b/a CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation; DONALD C. FOSSUM; and STEVEN D. BRODHEAD,

No. CV-05-399-EFS

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF PARTIES'
STIPULATED MOTION TO
CONTINUE EXPERT
DISCLOSURE DATES**

Defendants.

I. RELIEF REQUESTED

Given the complexity of this motor vehicle accident case, the critical importance of the parties' expert evidence and the full schedules of trial counsel, plaintiff and defendants respectfully request the following changes to the current case Scheduling Order:

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PARTIES' STIPULATED MOTION
TO CONTINUE EXPERT DISCLOSURE DATES-1**

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1 Plaintiff's CR 26(a)(2) Expert Disclosures: from 11/5/06 to 11/20/06

2 Defense CR 26(a)(2) Expert Disclosures: from 1/6/07 to 1/22/07

3 Plaintiff's Rebuttal Disclosures: from 2/27/07 to 3/14/07

4 The parties agree that the September 17, 2007 trial date will remain firm.

5 II. DISCOVERY STATUS

6 This case arises out of a motor vehicle accident which occurred on or about
7 August 21, 2003, that resulted in plaintiff Thomas Waite sustaining a traumatic brain
8 injury and orthopedic injuries. The claims include negligence against the two
9 defendant drivers, Donald Fossum and Steven Brodhead, and additional claims against
10 defendant LDS Church.

11 The parties have worked diligently to provide initial disclosures, answer
12 discovery and schedule depositions. Counsel have deposed plaintiff Thomas Waite
13 and plaintiff's parents. The parties have scheduled the depositions of four (4) persons
14 identified by defendant LDS Church in Salt Lake City, Utah on November 9 and 10,
15 2006. Despite the parties' collective best efforts, it has taken, on average, two
16 months to schedule the depositions taken thus far due to counsel's trial calendar.

17 In addition to lay depositions, the parties are beginning to schedule expert
18 depositions in anticipation of the expert disclosure deadlines. Plaintiff's counsel has
19 advised that they intend to identify at least five (5) experts on liability and damages
20 and will have proposed deposition dates in January, 2007. Defendants LDS Church
21 and Fossum expect to identify at least four (4) experts on liability and damages.
22 Defendant Brodhead expects to identify at least four (4) experts on liability and
23 damages. Given the current Scheduling Order, the parties believe they will be able
24 to schedule these expert depositions prior to the current discovery cut-off of May 11,
25 2007. As such, the parties have agreed to stipulate to a two-week extension of the

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1 expert disclosures deadline so that the experts' reports are completed on time and
 2 contain the requisite information as required by the Court.

3 Given the complexity of this case, the critical importance of the parties' expert
 4 evidence, and the full schedules of trial counsel, the parties request that the expert
 5 disclosure deadlines be extended by two weeks.

6 **III. LOCAL RULE 37.1(b) COMPLIANCE**

7 The Scheduling Order and the inherent power of the Court to manage discovery
 8 provide this Court authority to revise the Scheduling Order as discovery progresses.
 9 Here, good cause exists to revise the Scheduling Order as proposed by the parties.
 10 In particular, the parties have worked diligently and in good faith to conduct discovery
 11 to date and intend to continue to do so. The complexities of this case, however,
 12 present difficulties in complying with the current Scheduling Order as to disclosure
 13 of experts' reports only that cannot be overcome by the parties, despite their best
 14 efforts.

15 **IV. CONCLUSION**

16 Based on the good cause shown and on the plaintiff's and defendants' agreement
 17 to not oppose plaintiff's motion, plaintiff respectfully requests the Court revise the
 18 Scheduling Order as set forth above.

19 DATED this 24th day of October, 2006.

20
 21 **EYMAN ALLISON FENNESSY HUNTER
 JONES, P.S.**

22 BY s/ Richard C. Eymann
 23 **RICHARD C. EYMAN, WSBA #7470**
 24 Co-counsel for Plaintiff

25
 26 **EYMAN ALLISON FENNESSY HUNTER JONES**
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CERTIFICATE OF SERVICE

I, RICHARD C. EYMANN, hereby certify that on the 24th day of October, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following participants:

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s/Richard C. Eymann
RICHARD C. EYMANN

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PARTIES' STIPULATED MOTION
TO CONTINUE EXPERT DISCLOSURE DATES-4**

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